

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** The agency responsible for this acquisition is: The Department of Veterans Affairs, SAO West, VISN 18 NCO Big Spring, Texas on behalf of Raymond G Murphy Medical Center in the New Mexico VA Healthcare System. The contracting activity proposes to enter into a contract on the basis of other than full and open competition for preventive maintenance and repairs on three laboratory centrifuges. The purchase request number is 501-13-1-340-0009.
2. **Nature and/or Description of the Action Being Processed:** A new contract is proposed as a base year plus four option years at firm fixed-prices to Beckman Coulter, Inc. (BCI), 250 S Kraemer Blvd, Brea, CA 92821.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The procurement is to provide preventive maintenance and repair services on three laboratory centrifuges at a yearly cost of \$7,941.05, for a total proposed contract price of \$39,705.25. All three pieces of equipment were purchased originally from BCI through that company's GSA Schedule Contract, but are no longer under warranty. Previously, the subject services were obtained on each piece of equipment ad hoc; the value of each such purchase was under the micro-purchase threshold and paid for via GPC. However, this equipment requires recurring service to remain Joint Commission compliant and thereby meets the criteria for contracting activity.
4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC 5253(c) (1), as implemented by FAR 6.302.1
  - (X ) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
  - ( ) (2) Unusual and Compelling Urgency per FAR 6.302-2;
  - ( ) (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per FAR 6.302-3;
  - ( ) (4) International Agreement per FAR 6.302-4
  - ( ) (5) Authorized or Required by Statute FAR 6.302-5;
  - ( ) (6) National Security per FAR 6.302-6;
  - ( ) (7) Public Interest per FAR 6.302-7;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** The reason why it is appropriate to cite FAR 6.302-1 as the statutory authority for JOFOC is that the regulation is applicable where the agency's requirements can only be satisfied by the unique supplies/services provided by the original equipment manufacturer (OEM). The contractor, BCI, has provided the local contracting activity with a statement detailing the proprietary nature of tools, engineering upgrades, and equipment parts. BCI does not authorize third party vendors, nor does it guarantee that any parts or services provided by third parties comply with BCI standards.

As the OEM, BCI has developed and updated comprehensive requirements for preventive maintenance

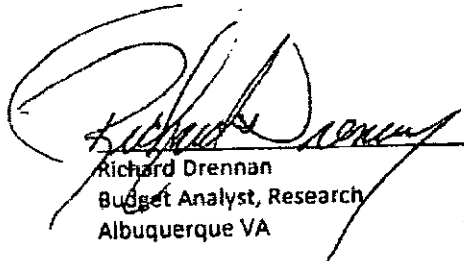
services on proprietary BCI equipment to maintain optimum functionality throughout the equipment life cycle. All previous service events on the subject equipment has been accomplished by BCI, eliminating the possibility of "grey market" parts or labor being introduced to this highly technical medical equipment.

6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable. This procurement is for preventive maintenance and repair services on equipment that is already owned and in use by the New Mexico VA. The contractor does not authorize third-party service vendors, nor does it provide the necessary training, proprietary tools, or engineering upgrade data to outside enterprises. These activities make the required services available from only the single source.
7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable: The anticipated total dollar amount of the proposed acquisition is \$39,705.25, covering a period of a base year and four option years. In accordance with FAR 13.106-3(a), purchase history for maintenance on the subject equipment, as well as a survey of prices paid for similar services on other highly technical medical equipment, indicates that the proposed pricing is both fair and reasonable and provides a significant cost savings to the VA by enabling continued use of already-owned equipment, as opposed to the approximate \$79,051 in costs (GSA pricing) that would be incurred by having to replace the equipment.
8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted: FAR Part 10 directs that market research be conducted on each acquisition appropriate to the circumstances. Extensive research has been conducted through internet queries and reference to readily available catalogs and price lists, for these specific services and similar items/services. Due to the proprietary nature of this services required, in addition to the OEM's written statement asserting exclusion of third-party vendors, market research for this acquisition has concentrated on confirming the information provided. A minor amount of market research was done on the cost of replacement equipment, but was quickly eliminated as a source of possible savings to the Government.
9. Any Other Facts Supporting the Use of Other than Full and Open Competition: This procurement is for on-going services to equipment already in use. Given the proprietary statements by BCI, full and open competition could only be provided for if the equipment were to be replaced entirely. However, there is no evidence to suggest that such replacement would create a more competitive environment for the service thereto. Because the equipment currently in use remains optimally functional, this scenario does not represent any long-term savings; it is, therefore, not in the best interests of the Government or of the Veterans we serve.
10. Listing of Sources that Expressed, In Writing, an Interest in the Acquisition:

Beckman Coulter, Inc  
250 S Kraemer Blvd  
Brea, CA 92821

11. A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required: The barriers to competition on this service requirement are inherent in the equipment to be serviced. Removing those barriers would require the OEM to make proprietary information available to third-party service vendors, which it has not done. However, market research on this acquisition will remain on-going during the exercise of subsequent option years. If BCI should form partnerships with service vendors in future, barriers to competition may be overcome at some future time.

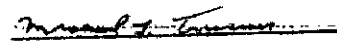
- 12. Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.

  
Richard Drennan  
Budget Analyst, Research  
Albuquerque VA

11/15/12  
Date


**13. Approvals in accordance with FAR 6.304**

- a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
Michael J. Tusinger  
Supervisory Contract Specialist  
NCO 18, Big Spring

11/15/2012  
Date


- b. **VISN/PCA QA (Required \$3K and above):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
VISN18 QA/COMPLIANCE PROCUREMENT ANALYST  
Paulette Pereira  
QA/Compliance Procurement Analyst  
NCO 18, Tucson



Date

- c. **NCM/PCM (Required \$3K and above):** I certify the justification meets requirements for other than full and open competition.

  
for Sabrina J. Smith  
Network Contract Manager  
VISN/NCO 18

12/4/12  
Date